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PTO/SB/01A (10-00)

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### DECLARATION (37 CFR 1.63) FOR UTILITY OR DESIGN APPLICATION USING AN APPLICATION DATA SHEET (37 CFR 1.76)

**Title of Invention****METHOD AND APPARATUS FOR PROKARYOTIC AND EUKARYOTIC  
CELL QUANTITATION**

As the below named inventor(s), I/we declare that:

This declaration is directed to:

- ☐ The attached application, or  
☒ Application No. 10/087,200, filed on March 1, 2002,  
☐ as amended on \_\_\_\_\_ (if applicable);

I/we believe that I/we am/are the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought;

I/we have reviewed and understand the contents of the above-identified application, including the claims, as amended by any amendment specifically referred to above;

I/we acknowledge the duty to disclose to the United States Patent and Trademark Office all information known to me/us to be material to patentability as defined in 37 CFR 1.56, including material information which became available between the filing date of the prior application and the National or PCT International filing date of the continuation-in-part application, if applicable; and

All statements made herein of my/our own knowledge are true, all statements made herein on information and belief are believed to be true, and further that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001, and may jeopardize the validity of the application or any patent issuing thereon.

**FULL NAME OF INVENTOR(S)**Inventor one: James E. FlemingCitizen of: USSignature: James E. FlemingDate: May 2, 2002Inventor two: Jason Buck SomesCitizen of: USSignature: Jason Buck SomesDate: May 2, 2002

Inventor three: \_\_\_\_\_

Citizen of: \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

Inventor four: \_\_\_\_\_

Citizen of: \_\_\_\_\_

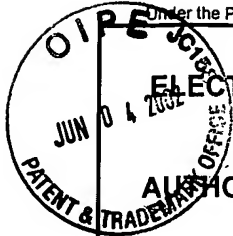
Signature: \_\_\_\_\_

Date: \_\_\_\_\_

☐ Additional inventors are being named on \_\_\_\_\_ additional form(s) attached hereto.

Burden Hour Statement: This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is used by the public to file (and the PTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 1 minute to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.  
Docket No. 390054.401C1

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# **ELECTION AND POWER OF ATTORNEY OR AUTHORIZATION OF AGENT**

Application Number	10/087,200
Filing Date	March 1, 2002
First Named Inventor	James E. Fleming
Group Art Unit	
Examiner Name	
Attorney Docket Number	390054.401C1

I hereby appoint:

☒ Practitioners at Seed IP Law Group PLLC

OR

☐ Practitioner(s) named below:

00500

PATENT TRADEMARK OFFICE

Name	Registration Number

as my/our attorney(s) or agent(s) to prosecute the application identified above, and to transact all business in the Patent and Trademark Office connected therewith.

Please change the correspondence address for the above-identified application to:

☐ The above-mentioned Customer Number.

OR

☐ Firm or  
Individual Name

Address

Address

City

State

ZIP

Country

Telephone

Fax

I am the:

☐ Applicant/Inventor.☒ Assignee of record of the entire interest. See 37 CFR 3.71.*Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96).*☒ As assignee of record of the entire interest I/we hereby elect, under 37 C.F.R. § 3.71, to prosecute the application to the exclusion of the inventor.

## SIGNATURE of Applicant or Assignee of Record

Name	James E. Fleming, Vice President of Research and Development
Signature	<i>James E. Fleming</i>
Date	May 2, 2002

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

\*Total of \_\_\_\_\_ forms are submitted.

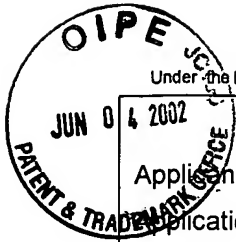
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PTO/SB/96 (08-00)

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**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: James E. Fleming et al.Application No./Patent No.: 10/087,200 Filed/Issue Date: March 1, 2002Entitled: METHOD AND APPARATUS FOR PROKARYOTIC AND EUKARYOTIC CELL QUANTITATIONGenPrime, Inc.

(Name of Assignee)

a

corporation

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of an undivided part interest

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached

2. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached

3. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.8]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

May 2, 2002  
Date

James E. Fleming  
Typed or printed name

James E. Fleming  
Signature

Vice President of Research and Development  
Title

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, Washington, DC 20231.

**COPY**

Express Mail EV064840983US

ASSIGNMENT

WHEREAS, we, James E. Fleming and Jason Buck Somes (hereinafter referred to as ASSIGNORS), having mailing addresses of 5412 West Jamie Court, Spokane, Washington 99208, and 1312 West 11<sup>th</sup> Apartment No. 1, Spokane, Washington 99204, respectively, are the joint inventors of an invention entitled "METHOD AND APPARATUS FOR PROKARYOTIC AND EUKARYOTIC CELL QUANTITATION," as described and claimed in the specification forming part of a continuation-in-part application for United States letters patent which was filed on March 1, 2002 and assigned Application No. 10/087,200; this application is a continuation-in-part of U.S. Application No. 09/696,710, filed October 24, 2000, which application claims the benefit of U.S. Provisional Application No. 60/163,738, filed October 25, 1999.

WHEREAS, GenPrime, Inc. (hereinafter referred to as ASSIGNEE), a corporation of the State of Washington having a place of business at 157 South Howard, Suite 605, Spokane, Washington 99201, is desirous of acquiring the entire right, title and interest in and to the invention and in and to any letters patent that may be granted therefor in the United States and in any and all foreign countries;

NOW, THEREFORE, in exchange for good and valuable consideration, the receipt of which is hereby acknowledged, ASSIGNORS hereby sell, assign and transfer unto said ASSIGNEE, the entire right, title and interest in and to said invention, said application and any and all letters patent which may be granted for said invention in the United States of America and its territorial possessions and in any and all foreign countries, and in any and all divisions, reissues and continuations thereof, including the right to file foreign applications directly in the name of ASSIGNEE and to claim priority rights deriving from said United States application to which said foreign applications are entitled by virtue of international convention, treaty or otherwise, said invention, application and all letters patent on said invention to be held and enjoyed by ASSIGNEE and its successors and assigns for their use and benefit and of their successors and assigns as fully and entirely as the same would have been held and enjoyed by ASSIGNORS had this assignment, transfer and sale not been made. ASSIGNORS hereby authorize and request the Commissioner of Patents and Trademarks to issue all letters patent on said invention to ASSIGNEE. ASSIGNORS agree to execute all instruments and documents required for the making and prosecution of applications for United States and foreign letters patent on said invention,

for litigation regarding said letters patent, or for the purpose of protecting title to said invention or letters patent therefor.

May 2, 2002  
Date  
James E. Fleming  
James E. Fleming  
State of Washington )  
County of Spokane ) ss.

I certify that I know or have satisfactory evidence that James E. Fleming is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated May 2, 2002  
Signature of  
Notary Public Marcy Cockle  
Printed Name Marcy Cockle  
My appointment expires 10-10-03

May 02, 02      Jason Buck Somes  
Date      Jason Buck Somes  
State of Washington )  
County of Spokane ) ss.

I certify that I know or have satisfactory evidence that Jason Buck Somes is the person who appeared before me, and said person acknowledged that he signed this instrument and acknowledged it to be his free and voluntary act for the uses and purposes mentioned in the instrument.

Dated May 2, 2002  
Signature of Notary Public Marcy Cockle  
Printed Name Marcy Cockle  
My appointment expires 10-10-03